

REMARKS

The Office Action mailed October 4, 2004, and the references newly cited and applied therein have been carefully reviewed. The claims in the application are now claims 1-5, 9 and 11-20.

Applicants appreciate the thorough examination. In spite of the fact that the new prior art is much closer than the prior art previously applied, applicant's claims still define novel and unobvious subject matter, and therefore should be allowed. Applicant accordingly respectfully requests favorable reconsideration and allowance.

Attention is respectfully invited to the second paragraph of applicant's Remarks (page 4) of the Reply filed June 24, 2004. **APPLICANT AGAIN RESPECTFULLY REQUESTS THE PTO TO ACKNOWLEDGE RECEIPT OF APPLICANT'S PAPERS FILED UNDER \$119.**

New claims 15-20 have been added, and these claims are patentable for the same reasons as the other claims, as pointed out below. Claim 15 finds support at page 1, line 21; also see page 7, lines 5 and 6, and line 34. Claims 16-19 find support at page 6, lines 6-27. Claim 20 finds support at page 7, line 8.

Claims 1-5 have been rejected as obvious under §103 from newly cited Ginocchio or newly cited Schwab, each in view of applicant's disclosure. In addition, claims 9 and 11-13 have been rejected as obvious under §103 from Griffith in view of either Ginocchio or Schwab, further in view of applicant's disclosure. These rejections are respectfully traversed.

Applicant's disclosure as relied upon by the PTO in all of the aforementioned rejections seems to be based on the disclosure in applicant's specification in the paragraph spanning pages 3 and 4 which confirms that polysiloxanes are known. Applicant has never taken any contrary position, and fully agrees that polysiloxanes are known materials.

However, applicant has not admitted that there is any polysiloxane material, let alone cross-linked polysiloxane, which is known for its longitudinal elasticity properties, and such knowledge cannot be assumed. In the absence of evidence that any particular polysiloxane was known to have longitudinal elasticity properties of any kind, let alone such longitudinal elasticity properties sufficient for applicant's claimed elastic tensioning cable, it cannot be taken that such elongation elasticity properties were known. Such knowledge is not to be found in applicant's specification as having been known, and is not found in any of the prior art applied, and therefore it would not have been obvious to use a

polysiloxane as claimed, and all of the rejections must fall for this purpose alone.

Ginocchio is further deficient in that it contains no disclosure whatsoever of an elastic tensioning cable made entirely of a single material. Ginocchio only teaches such a tensioning cable which is encased in a material sheath or cover 56. The closest Ginocchio comes is the embodiment shown in Fig. 11A having a one-piece core 54 and a cover 56 over the core.

Schwab is somewhat closer in that Schwab states that bungee type elastic cords may consist simply of bare single elongate strand formed of rubber. However, neither Schwab nor Ginocchio teaches a polysiloxane, as is of course acknowledged in the rejection.

As indicated above, no possible combination of Ginocchio in view of applicant's disclosure, or Schwab in view of applicant's disclosure, can reach the claimed subject matter because there is no evidence of record of the knowledge of any polysiloxane, let alone cross-linked polysiloxane, having sufficient longitudinal elongation properties for the claimed product. Moreover, the combination as proposed would not have been obvious for this very same reason.

In terms of the requirements of a *prima facie* case of patentability as stated in the MPEP at 2143, it is

necessary for the prior art to teach or suggest all of the features recited in the claims, and in this regard all words which appear in the claims must be given full consideration (see MPEP 2143.03). Applicant does not see that the prior art shows, or that applicant has made any admission that any polysiloxane, let alone any cross-linked polysiloxane, is known to have adequate longitudinal elongation properties.

Also, MPEP 2143 indicates that there must be some suggestion or motivation to modify the base reference (see MPEP 2143.01 for more detail). If it was not known that cross-linked polysiloxane has the requisite longitudinal elongation properties for a cable of the type disclosed by Schawb or Ginnochio, then there would have been no suggestion or motivation to use such a cross-linked polysiloxane.

Further, according to MPEP 2143, and 2143.02 in more detail, there would have needed to be a reasonable expectation of success which was apparent from the prior art. Again, if it were not known that cross-linked polysiloxane had the requisite elongation properties in the longitudinal direction, there would have been no reasonable expectation of success.

Particularly in this latter regard, the present invention has a number of advantageous properties compared with the conventional rubber materials used in the prior art, noting especially the paragraph spanning pages 6 and 7 of

applicant's specification, as well as the following paragraphs on page 7.

Respectfully, it should be clear that applicant's base claims 1 and 11 define novel and unobvious subject matter over the prior art for the reasons pointed out above. Accordingly, withdrawal of the rejections is in order and is respectfully requested.

At least some of the dependent claims add features which further define nonobvious subject matter. Thus, applicant does not see that the prior art discloses a cable in which a single strand is in the form of an extrudate as called for in claim 2.

Applicant does not see that the prior art discloses a single strand cable which incorporates colored pigments as called for in claims 3 and 12.

Applicant does not see that the prior art discloses such a single strand cable having a diameter of between 6 and 15 mm as called for in claims 5 and 14, or even one having a minimum thickness of 6mm as called for in the base claims 1 and 11. Applicant has not overlooked the comment in the rejection of claims 1-5 that it "would have been obvious to provide a cord diameter of 6 or more mm to achieve specific design requirements," But the references provide no dimensions whatsoever, and so their disclosures are entirely

open ended and do not teach the person of ordinary skill in the art anything specific. Respectfully, the recitations in question are not shown by the prior art; and, if any prior art showing such features is known, applicant should be able to face and address such prior art.

New claim 15 adds the feature that the combination of claim 9 is in the form of a pool cover, and applicant does not see that this disclosed in the prior art.

Applicant also does not see that the prior art discloses the combination of claim 9, which is fire resistant as called for in claim 20.

Claim 16 calls for certain additional characterizing features which inherently result from the cross-linking, and this subject matter also is not shown by the prior art.

Lastly, claims 17-19 recite other characterizing features of the claimed single strand polysiloxane cable, these features also not being shown by the prior art, and clearly not being certainly in existence in the prior art, i.e. inherent.

Accordingly, additional reasons exist for allowing many of the subsidiary claims as pointed above.

The prior art document made of record and not relied upon has been noted, along with the implication that such document is deemed by the PTO to be insufficiently pertinent

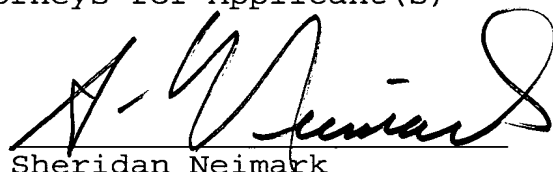
to warrant its application against any of applicant's claims. Indeed, the Vadaz Fekete USP '956 patent, entitled "Waverider Buoy Accelerometer Calibration Testing Device" seems to be totally irrelevant insofar as applicant can determine, and applicant does not understand why this prior art was even cited of record.

Favorable reconsideration and allowance are earnestly solicited. If the present Reply does not place the present application into condition for allowance, applicant would request the examiner to telephone applicant's attorney so that the present application can be discussed either over the telephone or in a personal interview.

Respectfully submitted,

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